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APR 27 2005

In re Application of :
Ernest B. Riemann :
Application No. 10/679,689 :
Filed: October 7, 2003 : ON PETITION
Attorney Docket No. 0002792.0002 :

OFFICE OF PETITIONS

This is a decision on the correspondence filed February 22, 2005, and supplemented on April 15, 2005, in response to a Notice of Omitted Item(s) in a Nonprovisional Application. The correspondence is properly treated as a petition under 37 CFR 1.53 to accord a filing date of October 7, 2003, to pages 3-6 of the specification.

The application was filed on October 7, 2003. On February 7, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice") stating that the application had been accorded a filing date; however, pages 3-6 of the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant avers that pages 3-6 of the specification were originally filed with the application on October 7, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard acknowledging receipt of, *inter alia*, 40 pages of spec., claims and abstract in the above-identified application by this Office on October 7, 2003. A review of the contents of the application file reveal that it contains 31 pages of specification, 4 pages of claims and 1 page of abstract (36 total pages).

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, *inter alia*, 40 pages of spec., claims and abstract in the above-identified application by this on October 7, 2003.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

The copy of pages 3-6 of the specification, filed with the instant petition on February 22, 2005, will be used for examination purposes.

No fee has been charged and none is due.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of October 7, 2003, and an indication that pages 3-6 of the specification were present on filing, using pages 3-6 of the specification filed with the instant petition on February 22, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.



Derek L. Woods

Attorney

Office of Petitions